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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

KIM T.,

Petitioner,

v.

THE SUPERIOR COURT OF
LOS ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

B162050

(Super. Ct. No. J989462)

ORIGINAL PROCEEDING; petition for writ of mandate. D. Zeke Zeidler,
Juvenile Court Referee. Petition granted.

Donna Wright Bernstein for Petitioner.

No appearance for Respondent.

Lloyd W. Pellman, County Counsel, and Lois D. Timnick, Deputy County
Counsel, for Real Party in Interest.

* * * * *

Petitioner, Kim T., is the mother of Jerahmy T., a dependent of the juvenile court. She seeks review of the juvenile court's September 10, 2002 order terminating reunification services for Jerahmy and the juvenile court's October 9, 2002 order setting a permanency planning hearing for Jerahmy pursuant to Welfare and Institutions Code section 366.26.¹

SUMMARY OF FACTS AND PROCEDURE

On August 23, 2002, the Department of Children and Family Services (DCFS) served notice on petitioner of an 18-month review hearing for Jerahmy, to be held September 10, 2002, at which the social worker would recommend termination of reunification services for petitioner. The DCFS report for the review hearing recounted, among other things, petitioner's multiple unsuccessful attempts at substance abuse treatment and failures at drug testing, and recommended that the juvenile court order long-term foster care and permanent placement services for Jerahmy. The report was approved by DCFS on September 5, 2002, and filed September 10, 2002, the date of the hearing. On September 10, 2002, DCFS filed an addendum to its report, informing the juvenile court that because it had not completed adoption assessments it was not recommending long-term foster care. The addendum recommended that the juvenile court set a section 366.26 hearing for December 2002.

At the commencement of the September 10, 2002 hearing, petitioner's counsel requested a contested hearing on the issue of whether return of Jerahmy to petitioner would pose substantial risk to him. Petitioner's counsel represented that petitioner had stopped drinking and had entered a substance abuse program four weeks before, was doing extremely well in the program, and had been testing clean for drugs for the past month. The juvenile court denied petitioner's request for a contested hearing, stating that even if all of counsel's representations were

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

assumed to be true, that: petitioner was doing well in her treatment program; staff from the program would testify that treatment was different this time because petitioner was being provided additional services that had not been offered earlier; Jerahmy could be placed with petitioner in the program; and the DCFS social worker could have done more for petitioner; it would still find that petitioner had been provided reasonable services, that risk of detriment to Jerahmy existed should he be returned to her, and that no reason existed to provide services beyond 18 months, because petitioner had been in programs four times since Jerahmy had been detained and she had had extensive opportunities to drug test. On September 10, 2002, the juvenile court terminated reunification services with respect to Jerahmy, and on October 9, 2002, set a section 366.26 hearing. This petition for extraordinary relief under California Rules of Court, rule 39.1B followed.

DISCUSSION

Petitioner contends the juvenile court's order terminating reunification services was erroneous because she had not received the social worker's status report at least 10 days before the September 10, 2002 hearing, and she had been denied a contested hearing on the issue of termination of family reunification services and the setting of a section 366.26 hearing. DCFS filed a response to the petition in which it conceded that petitioner was entitled to relief under *Judith P. v. Superior Court* (2002) 102 Cal.App.4th 535 (*Judith P.*) [published two weeks after petitioner's hearing]. *Judith P.* holds that the failure to provide a party to a dependency proceeding with a social worker's status report at least 10 days prior to a section 366.21 status review hearing is reversible error per se absent either a party's express waiver of the report or continuance of the hearing. (*Judith P.*, *supra*, 102 Cal.App.4th at p. 558.) The rationale of *Judith P.*, that timely receipt of the social worker's status report is fundamentally mandatory and obligatory in order to ensure fairness and reliability of dependency proceedings, applies to a section 366.22 permanency review hearing as it does to a section 366.21 review hearing.

Since *Judith P.* is dispositive, we need not consider petitioner's remaining claim of error.

DISPOSITION

The petition for writ of mandate is granted. The order to show cause is discharged.

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_____, J.
ASHMANN-GERST

We concur:

_____, P.J.
BOREN

_____, J.
NOTT